

par. (2)(B) inserted “or her” after “his” in two places; in par. (2)(C) inserted “or she” after “he”; in par. (3) struck out “maturity” before “experience”, substituted “and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission” for “and shall be chosen from among individuals who, at the time of their appointment”, substituted “Such members of the Commission” for “Members of the Commission” and substituted “of his or her appointment to the Commission” for “such individual begins to serve as a member of the Commission”; and in par. (5) substituted “A member may serve as Chairman only once” for “No member may serve as Chairman more often than once”.

Subsec. (b)(1). Pub. L. 96-187, §105(6), substituted “exclusive jurisdiction” for “exclusive primary jurisdiction”.

Subsec. (c). Pub. L. 96-187, §105(6), substituted “provisions of this Act” for “provisions of this subchapter” in first sentence, and substituted “A member of the Commission may not delegate to any person his or her vote or any decisionmaking authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 437d(a) of this title or with chapter 95 or chapter 96 of title 26.” for “except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of title 26, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 437d(a) of this title. A member of the Commission may not delegate to any person his vote or any decisionmaking authority or duty vested in the Commission by the provisions of this subchapter”.

Pub. L. 96-187, §112(b), purported to substitute “section 307(a)” for “section 310(a)”, referred to in text as “section 437d(a) of this title”. However, that substitution had been made in the general amendment of the subsection by section 105(6) of Pub. L. 96-187. See preceding paragraph.

Subsec. (f). Pub. L. 96-187, §105(6), in par. (1) inserted “or she” after “as he”; in par. (3) struck out “Government” after “United States”; and added par. (4).

1976—Subsec. (a)(1). Pub. L. 94-283, §101(a), changed provisions covering the appointment and confirmation of the six members of the Commission other than the Secretary of the Senate and the Clerk of the House of Representatives by substituting a requirement that they be appointed by the President of the United States, by and with the advice and consent of the Senate, for a requirement that appointment be made by the President, the President pro tempore of the Senate, and the Speaker of the House, with confirmation by a majority of both Houses of the Congress, and made technical changes in the provisions covering the political affiliation of the six appointees so as to accommodate the changed appointment and confirmation procedures.

Subsec. (a)(2). Pub. L. 94-283, §101(b), provided that members of the Commission serve for terms of 6 years, except that members first appointed serve for staggered terms as designated by the President, and inserted provision that a member may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

Subsec. (a)(3). Pub. L. 94-283, §101(c)(1), inserted provisions that Commission members may not engage in other businesses, vocations, or employment, but allowed appointees one year after beginning service as members of the Commission to terminate or liquidate other businesses, vocations, or employment which they may be engaged in when they begin their service as Commission members.

Subsec. (b). Pub. L. 94-283, §101(c)(2), designated existing provisions as par. (1), substituted “chapter 95 and

chapter 96 of title 26” for “sections 608, 610, 611, 613, 614, 615, 616, and 617 of Title 18” and “shall have exclusive primary jurisdiction” for “has primary jurisdiction”, and added par. (2).

Subsec. (c). Pub. L. 94-283, §101(c)(3), provided that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of title 26, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 437d(a) of this title.

Subsec. (f)(1). Pub. L. 94-283, §101(d), provided that the appointment and the fixing of pay of additional personnel by the staff director may be done without regard to the provisions of title 5 governing appointments in the competitive service.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-61, title V, §512(b), Oct. 10, 1997, 111 Stat. 1305, as amended by Pub. L. 105-119, title VI, §631, Nov. 26, 1997, 111 Stat. 2523, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to individuals nominated by the President to be members of the Federal Election Commission after December 31, 1997 unless the President announced his intent to nominate the individual prior to November 30, 1997.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of this title.

#### EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

OPERATION OF FEDERAL ELECTION COMMISSION AFTER 1976 AMENDMENT OF FEDERAL ELECTION CAMPAIGN ACT; APPOINTMENT OF COMMISSION MEMBERS; TRANSFER OF PERSONNEL, LIABILITIES, CONTRACTS, PROPERTY, AND RECORDS, OF COMMISSION; REFERENCES TO COMMISSION PRIOR TO AMENDMENT DEEMED REFERENCES TO COMMISSION AS CONSTITUTED AFTER 1976 AMENDMENT OF FEDERAL ELECTION CAMPAIGN ACT

Pub. L. 94-283, title I, §101(e)-(g), May 11, 1976, 90 Stat. 476, 477, provided for the transition of the Federal Election Commission as it was reconstituted under the Federal Election Campaign Act of 1971 as amended by Pub. L. 94-283 by providing for appointment of members, transfer of personnel, liabilities, contracts, property, and records, and savings provisions for orders, determinations, rules opinions, and proceedings issued, pending, or commenced before such amendments.

TRANSITIONAL PROVISION PENDING APPOINTMENT AND QUALIFICATION OF MEMBERS AND GENERAL COUNSEL OF FEDERAL ELECTION COMMISSION AND TRANSFER OF RECORDS, DOCUMENTS, MEMORANDUMS, AND OTHER PAPERS

Pub. L. 93-443, title II, §208(b), Oct. 15, 1974, 88 Stat. 1286, provided transitional authority for the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives pending the appointment and qualification of the members and general counsel of the Federal Election Commission and authority for transfer of records, documents, memorandums, and other papers to the Commission.

### § 30107. Powers of Commission

#### (a) Specific authorities

The Commission has the power—

(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

(2) to administer oaths or affirmations;  
 (3) to require by subpoena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 30109(a)(8) of this title) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of title 26, through its general counsel;

(7) to render advisory opinions under section 30108 of this title;

(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of title 26; and

(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

**(b) Judicial orders for compliance with subpoenas and orders of Commission; contempt of court**

Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpoena or order of the Commission issued under subsection (a), issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

**(c) Civil liability for disclosure of information**

No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

**(d) Concurrent transmissions to Congress or Member of budget estimates, etc.; prior submission of legislative recommendations, testimony, or comments on legislation**

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission

to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

**(e) Exclusive civil remedy for enforcement**

Except as provided in section 30109(a)(8) of this title, the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.

(Pub. L. 92-225, title III, §307, formerly §311, as added Pub. L. 93-443, title II, §208(a), Oct. 15, 1974, 88 Stat. 1282; renumbered §310 and amended Pub. L. 94-283, title I, §§105, 107, 115(b), May 11, 1976, 90 Stat. 481, 495; renumbered §307 and amended Pub. L. 96-187, title I, §§105(3), 106, Jan. 8, 1980, 93 Stat. 1354, 1356; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(6), (8), and (e), means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

CODIFICATION

Section was formerly classified to section 437d of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

PRIOR PROVISIONS

A prior section 307 of Pub. L. 92-225 was renumbered section 305, and is classified to section 30105 of this title.

AMENDMENTS

1986—Subsec. (a)(6), (8). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Subsec. (a). Pub. L. 96-187, §106, in par. (1) substituted “under oath, such written reports and answers to questions as the Commission may prescribe” for “in writing such reports and answers to questions as the Commission may prescribe” and struck out provision that such submission be made within such reasonable time and under oath as determined by the Commission; in par. (4) struck out “of this subsection” after “paragraph (3)”; in par. (6) substituted “section 437g(a)(8)” for “section 437g(a)(9)”, and substituted “to enforce the provisions of this Act” for “for the purpose of enforcing the provisions of this Act”; struck out par. (9) relating to formulation of general policy respecting administration of this Act and chapters 95 and 96 of title 26; and redesignated former par. (10) as (9).

Subsec. (b). Pub. L. 96-187, §106, reworded subsec. (b) without substantive changes.

Subsec. (c). Pub. L. 96-187, §106, reenacted subsec. (c) without change.

Subsec. (d). Pub. L. 96-187, §106, struck out “of the United States” after “President” in pars. (1) and (2).

Subsec. (e). Pub. L. 96-187, §106, substituted “section 437g(a)(8)” for “section 437g(a)(9)”.

1976—Subsec. (a)(6). Pub. L. 94-283, §107(b)(1), substituted “civil actions” for “civil proceedings” and inserted “(in the case of any civil action brought under section 437g(a) (9) of this title)” after “defend” and “and chapter 95 and chapter 96 of title 26” after “this Act”.

Subsec. (a)(7). Pub. L. 94-283, §115(b), substituted “section 312” for “section 313” in the original to ac-

commodate the renumbering of section 313 of Pub. L. 92-225 as section 312 of Pub. L. 92-225 by section 105 of Pub. L. 94-283. Since both the original and substituted references translate as “section 437f of this title” no change in text was required.

Subsec. (a)(8). Pub. L. 94-283, §107(a)(1), inserted “to develop such prescribed forms and to” before “to make, amend, and repeal” and inserted “and chapter 95 and chapter 96 of title 26” after “provisions of this Act”.

Subsec. (a)(9). Pub. L. 94-283, §107(a)(2), substituted “and chapter 95 and chapter 96 of title 26; and” for “and sections 608, 610, 611, 613, 614, 615, 616, and 617 of title 18;”.

Subsecs. (a)(10), (11). Pub. L. 94-283, §107(a)(3), redesignated par. (11) as par. (10). Former par. (10), which covered the development of prescribed forms under subsection (a)(1) of this section, was struck out.

Subsec. (e). Pub. L. 94-283, §107(b)(2), added subsec. (e).

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of this title.

#### EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

### § 30108. Advisory opinions

#### (a) Requests by persons, candidates, or authorized committees; subject matter; time for response

(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of title 26, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 20 days after the Commission receives a complete written request.

#### (b) Procedures applicable to initial proposal of rules or regulations, and advisory opinions

Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 30111(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

#### (c) Persons entitled to rely upon opinions; scope of protection for good faith reliance

(1) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the trans-

action or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

#### (d) Requests made public; submission of written comments by interested public

The Commission shall make public any request made under subsection (a) for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public.

(Pub. L. 92-225, title III, §308, formerly §313, as added Pub. L. 93-443, title II, §208(a), Oct. 15, 1974, 88 Stat. 1283; renumbered §312 and amended Pub. L. 94-283, title I, §§105, 108(a), May 11, 1976, 90 Stat. 481, 482; renumbered §308 and amended Pub. L. 96-187, title I, §§105(4), 107(a), Jan. 8, 1980, 93 Stat. 1354, 1357; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (b), and (c)(2), means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

#### CODIFICATION

Section was formerly classified to section 437f of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

#### PRIOR PROVISIONS

A prior section 308 of Pub. L. 92-225 was classified to section 437b of Title 2, The Congress, prior to repeal by Pub. L. 96-187.

Another prior section 308 of Pub. L. 92-225 was classified to section 437a of Title 2, The Congress, prior to repeal by Pub. L. 94-283.

Another prior section 308 of Pub. L. 92-225 was renumbered section 311, and is classified to section 30111 of this title.

#### AMENDMENTS

1986—Subsecs. (a)(1), (b), (c)(2). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Subsec. (a). Pub. L. 96-187, §107, redesignated existing provisions as par. (1), substituted provisions requiring the Commission to render a written advisory opinion no later than 60 days after receiving a written request concerning the application of this Act, chapters 95 or 96 of title 26, or a rule or regulation for provisions requiring a written advisory opinion within a reasonable time in response to a written request by any individual holding Federal office, candidate for Federal office, any political committee or the national committee of a political party, provisions requiring promulgation of a rule or regulation pursuant to procedures established by section 438(c) of this title, and prohibiting issuance of advisory opinions except in accordance with the provisions of this section, and added par. (2).